IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL W.P.NO.126 OF 2007

Shri.Ajay Sampatrao Shinde
and Ors. ..Petitioners

Vs.

Sou.Chhayadevi Ajay
Shinde and Ors. ..Respondents

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Mr.Amit Sale advocate for Petitioners
Mr.Prashant P.Jadhav Advocate Respondent No.1
Shri.A.R.Patil A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : DECEMBER 5, 2007

P.C.

1. Leave to amend is granted. Amendment to be carried out forthwith.

2. Heard the learned advocate for the petitioners-original accused, learned advocate for the respondent no.1-original complainant and the learned A.P.P. for the State.

3. The Respondent no.1-original complainant has filed a private complaint under Sections 323 and

504 of IPC against the petitioners. The Petitioner No.1 is the husband of Respondent no.1 and the petitioner nos.2 and 3 are the father in law and mother in law respectively of respondent no.1. Petitioner no.4 is the brother of petitioner no.1. The complaint filed against the petitioners is pending before the learned Judicial Magistrate F.C. at Kavathe Mahakal, District Sangli. The said case is numbered as SCC No.219 of 2006. In the said case, process under Sections 323 and 504 of IPC came to be issued against the petitioners. Being aggrieved thereby, the petitioners preferred revision which came to be dismissed, hence, the present petition.

4. The learned advocates for the parties have stated that there are matrimonial and maintenance proceedings pending between the parties and both the parties have shown inclination to settle the matter. Hence, Mr.Sale, the learned advocate for the petitioners states that at this stage, he does not press prayer for quashing of process issued against the petitioners but petitioners may be granted exemption from personal appearance before the trial Court.

5. Mr.Amit Sale, the learned advocate appearing for the petitioners states that petitioners are residing at Nasik and they had to attend the Court of the learned J.M.F.C., Kavathe Mahakal for the last more than one year. He has further stated that the distance between the residence of the petitioners and the Court where the case is going on, is almost 500 kms. The petitioner no.3 is a lady. Petitioner no.2 is over 62 years of age and petitioner no.4 is slightly handicapped. It is stated that besides these facts, petitioners have to incur heavy expenditure for attending the court on all the dates and the trial is not likely to be completed in the nearfuture. Hence, it is prayed that the petitioners be granted exemption from personal appearence.

6. Looking to the above facts, I am inclined to grant exemption from personal appearance to the petitioners before the trial Court. The learned Magistrate shall not insist on the personal appearance of the petitioners unless he is of the opinion that their presence is absolutely necessary. If the presence of the petitioners is

found to be absolutely necessary, on advance notice being given to the petitioners, the petitioners shall remain present before the trial Court on the specified date.

7. As far as the prayer for quashing of process is concerned, liberty is granted to the petitioners to prefer appropriate proceedings at a later stage if felt necessary.

8. Writ petition is disposed of.

[SMT.V.K.TAHILRAMANI, J.]